

APR 28 2006

PATENT

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***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

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In re application of: Strawn

Attorney Docket No.: CISC186/3226

Application No.: 09/738,749

Examiner: Hassan A. Phillips

Filed: December 14, 2000

Group: 2151

Title: TECHNIQUE FOR MONITORING  
HEALTH OF NETWORK DEVICE USING DATA  
FORMAT VERIFICATION

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Attention: Examiner Hassan A. Phillips at facsimile telephone number (571) 273-8300 on April 28, 2006.

Signed: \_\_\_\_\_

Boyd L. Ferreira

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Remarks begin on page 2 of this paper.

### REMARKS

On January 30, 2006 a Final Office Action was mailed by the examiner rejecting presently pending claims 45-96. An after final response (Amendment D) was filed by applicant's attorney on March 28, 2006. The after final response included proposed amendments to claims 74, and 75 for clarification purposes in order to avoid ambiguity and to place the claims in better condition for appeal. An advisory action was mailed by the examiner on April 13, 2006, indicating that the proposed amendments to the claims would be entered for purposes of Appeal.

On page 2 of the Final Office Action, claims 69, 74, 75 were rejected by the examiner under 35 U.S.C. §101 as being directed to non-statutory subject matter. This rejection is respectfully traversed. The examiner asserts on page 2 of the Final Office Action that a computer program product and a computer usable medium is not a new and useful process, machine, manufacture, or composition of matter. However, it is noted that the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility states:

...a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. (EXAMINER guidelines101\_20051026, 53:7-12)

Since claims 69, 74, and 75 are directed to a computer program product comprising a computer usable medium having computer readable code embodied therein, it is asserted that claims 69, 74, and 75 are statutory subject matter under 35 U.S.C. § 101.

On page 6 of the Final Office Action, claims 55-57, 59, 74, 86, and 87 were rejected by the examiner under 35 U.S.C. § 102(b) as being anticipated by Welter (US 6,138,157). This rejection is respectfully traversed. On page 7 of the Final Office Action, claims 45-54, 61-73, 75-85, 89-96 were rejected by the examiner under 35 U.S.C. § 103(a) as being on patentable over applicant submitted prior art (AAPA) in the view of Welter (6,138,157). This rejection is respectfully traversed.

On page 6 of the Final Office Action, the Examiner asserts that the feature of "performing format verification on a first portion of content information by verifying at least one format of the first portion of content information using predetermined format verification rules" is implicit in the teachings of Welter, citing Welter column 8, lines 1-9 in support of this assertion. Applicant respectfully disagrees.

As described in the specification of the present application, for example, pages 11-12, one of the novel and unique features of the present invention relates to the technique of creating and using regular expressions which are specifically configured or designed to be used for verifying formatting characteristics of selected content. Such a feature is defined, for example, in claims 49, 57, 63, 72, and 80 of the present application. In at least one embodiment of the present invention, such regular expressions (e.g., regular expressions which are specifically configured or designed to be used for verifying formatting characteristics of selected content) may be used in performing format verification on a first portion of content information by verifying at least one format of the first portion of content. Such a feature is defined, for example, in independent claims 45, 55, 61, 69, 74, 75, 77, 86, 89, and 96 of the present application.

For reference purposes, Welter column 8, lines 1-9 state:

...Process control is then turned over to an operation 211 which takes measures based on the HTTP request and response, analyzes received HTML for expected content and errors using methods such as matching against string valves, regular expressions, and calculated valves and stores them in a database.

Although Welter references the term "regular expressions" *only once* in the entire specification (column 8, line 5), there is no teaching or suggestion in Welter for using or creating regular expressions to perform format verification on a first portion of content by verifying at least one format of the first portion of content information using predetermined format verification rules. Additionally, while it may be commonly known to use regular expressions for the purpose of performing string matching (see, e.g., pages 12-13 of Amendment C, filed November 1, 2005), it is submitted that it was *not* commonly known to one having ordinary skill in the art at the time of the invention to use regular expressions for the purpose of performing format verification on a first portion of content.

Moreover, it is respectfully submitted that the examiner has improperly used the teachings of applicant's inventive embodiments (e.g., as described in the specification page 11) in order to reject the claims of the present invention in combination with Welter. For example, on pages 4-5 of the Final Office Action, the examiner attempts to provide support for his assertion (that Welter implicitly teaches performing format verification on a first portion of said content information by verifying at least one format of the first portion of content information using predetermined format verification rules) by stating:

...Applicant further states that a regular expression would look like: ([1-9])1[0-2]):[0-5][0-9] (A|P)M and thus, a string reported from a web page in the format of

"3:06 PM" would be validated, but a string in the format "0:83 KM" would not be validated. Using this same example, Examiner submits that the teachings of Welter would suggest "3:06 PM" is expected content and "0:83 KM" is an error.

Applicant respectfully objects to the Examiner's statement above because the examiner has improperly interpreted disclosed teachings of applicant's inventive embodiments of the present invention as "prior art" or "well known art" in order to use such teachings to reject the claims of the present invention in combination with Welter.

More specifically, as asserted previously, while it may be commonly known to use regular expressions for the purpose of performing string matching, it is submitted that it was *not* commonly known to one having ordinary skill in the art at the time of the invention to use regular expressions for the purpose of performing format verification on a first portion of content. On page 11 of the specification of the present application, applicant provides an example of one implementation for determining a health status of a server adapted to serve dynamically generated web pages which include current timestamp information by performing format verification of the web page timestamp information. In this particular implementation of the present invention, applicant proposes using a novel regular expression syntax of: "([1-9]1[0-2]):[0-5][0-9] (A|P)M" in order to utilize this inventive regular expression to perform format verification of the web page timestamp information.

It is submitted that the regular expression syntax: "([1-9]1[0-2]):[0-5][0-9] (A|P)M" represents a novel and unobvious use of regular expression syntax for the purpose of performing format verification of timestamp information. Further, it is submitted that there is no teaching or suggestion in Welter for using or creating regular expressions to perform format verification of document content such as, for example, timestamp information.

It is noted that Welter refers to the term "regular expression" *only once* in the entire specification (column 8, line 5). The mere reference in Welter of the possibility of using "regular expressions" to identify expected content and errors does not convey any teaching or suggestion for using the particular regular expression syntax of "([1-9]1[0-2]):[0-5][0-9] (A|P)M" to perform format verification of timestamp information, nor does it convey any teaching or suggestion for using a novel syntax of regular expressions to perform format verification of content by verifying at least one format of the content. Further, it is submitted that it was not commonly known to one having ordinary skill in the art at the time of the invention to use regular expressions for the purpose of performing format verification of document content such as, for example, timestamp information. Accordingly, it is respectfully

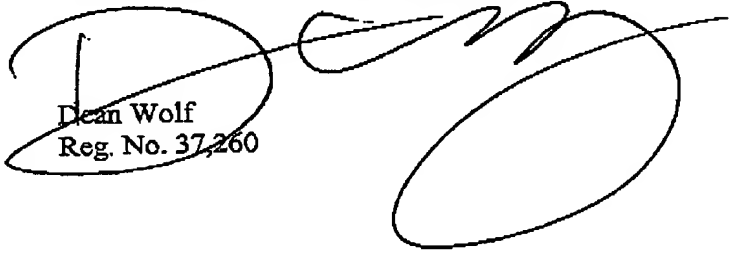
submitted that the examiner has improperly used the teachings of applicant's inventive embodiments to reject the claims of the present invention in combination with Welter.

Based at least on the above reasons, it is respectfully submitted that the examiner has improperly rejected the presently pending claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).

Moreover, it is submitted that the Examiner has failed to establish a *prima facie* case of unpatentability by failing to cite any objective evidence of record (other than Welter column 8, lines 1-9) which supports such the Examiner's assertion that Welter implicitly teaches performing format verification on a first portion of said content information by verifying at least one format of the first portion of content information using predetermined format verification rules.

In view of the foregoing, it is respectfully submitted that the rejections of all pending claims should be withdrawn.

Respectfully submitted,  
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